

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411

BOSTON, MASSACHUSETTS 02108

(617) 727-8352

(800) 462-OCPF

MICHAEL J. SULLIVAN

DIRECTOR

March 16, 1995

AO-95-11

Ms. Patricia Osborne, Treasurer
School Expansion Committee
119 Metropolitan Avenue
Ashland, MA 01721

Re: Ballot Question Committee
Support of Related Questions

Dear Ms. Osborne:

This letter is in response to your February 21, 1995 letter requesting an advisory opinion regarding what durational limits apply to the School Expansion Committee ("the Committee") in connection with its support of two related ballot questions.

You have stated that the Committee was organized to support a "debt exclusion" regarding a proposed school expansion in the Town of Ashland ("the Town") to be presented to the Town in a two step process. During the first step, which took place last fall, the Town's school committee presented a warrant article to the Town Meeting. The meeting was followed by a town election in which a ballot question relative to approval of a \$1,000,000 debt exclusion to pay for a feasibility study which included architectural and engineering plans was passed.

The Town has received a completed feasibility study. On March 22, 1995 the Board of Selectman will vote whether to place a second debt exclusion ballot question regarding the preparation of final plans and construction costs for the proposed school expansion on the May 1, 1995 town election ballot. If the ballot question passes, the school committee intends to submit a second warrant article to the Town Meeting on May 10, 1995 regarding these plans and costs. The Committee was organized to support both ballot questions and has, in its literature and presentation, consistently referred to both ballot questions.

You have asked whether the Committee may support both ballot questions or whether the Committee which supported the ballot question in the fall of 1994 must dissolve and a new Committee must be organized to support the ballot question which is anticipated on May 1, 1995. For the reasons set forth below, it is this office's opinion that the Committee may continue in existence until there is a final determination by the voters on the ballot question.

A ballot question committee is a political committee "which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a **specific question or questions** submitted to the voters . . ." (Emphasis added). Similarly, a "ballot question committee may receive, pay and expend money or other things of value solely for the purpose of favoring or opposing the adoption or rejection of a **specific question or questions** submitted to the voters." (Emphasis added). See M.G.L. c. 55, ss. 1 and 6B as added by chapter 43 of the Acts of 1994. See also AO-91-21 in which the office advised that ballot question committees could support more than one ballot question provided each question is specific and identifiable.

The office's previous opinions did not address whether the ballot questions had to appear on the same ballot or could appear on separate ballots. However, the office did conclude that "ongoing" ballot question committees were not generally contemplated by the campaign finance law. See M.G.L. c. 55, s. 18 as amended by the chapter 175 of the Acts of 1991.

In AO-93-30, which concerned a municipal override in the town of Acton, the office noted that the prohibition of ongoing ballot questions was consistent with one of the campaign finance law's essential purposes, the avoidance of corruption or the appearance of corruption:

A ballot question committee has raised money from the public for a specific purpose. If a ballot question committee were permitted to continue in existence after a final determination of that question, the possibility (or at least the appearance of such a possibility) exists that monies raised for one purpose would be used for another purpose. (AO-93-30, at page 2.)

AO-93-30 concerned a ballot question committee which had organized for a specific ballot question and was contemplating continuing in existence to support or oppose other, non-specific, possible "Proposition 2 1/2" ballot questions which might arise in the future at some undetermined point in time.

In your case, however, the Committee was organized to support two **specific and identifiable** ballot questions. Moreover, the Committee's literature addresses both questions and the two questions are, in fact, integrally related since the first question concerns payment for a feasibility study while the second question concerns payment for subsequent construction. Assuming the second question is placed on the ballot by the Board of Selectman, the fact that the two questions will have been brought before the voters over a period of approximately six months is irrelevant. In the language of the campaign finance law, the Committee was organized to promote "a specific question or questions" and may do so.

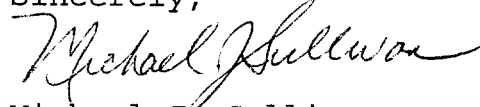
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Therefore, the Committee is not required to dissolve and may continue to make expenditures to support the second ballot question until that question is finally determined by the voters. Of course, whether the ballot question passes or fails, the Committee must dissolve and donate any remaining funds in accordance with the residual funds clause of M.G.L. c. 55, s. 18 after a final determination by the voters. I have enclosed a copy of the residual funds clause for your information.

This opinion has been rendered solely on the basis of representations made in your letter and conversations with this office's General Counsel and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,

A handwritten signature in cursive script, reading "Michael J. Sullivan".

Michael J. Sullivan
Director

MJS/cp
Enclosure